

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
) CR No. 15-cr-10139-PBS
 v.) (1st Cir. No. 20-2188)
)
 FULVIO FLETE-GARCIA,)
 Defendant.)

ORDER

March 9, 2022

SARIS, D.J.

On December 22, 2020, Fulvio Flete-Garcia ("defendant") filed a notice of appeal from the denial of his motion under 28 U.S.C. § 2255. Dkt. No. 180. On February 7, 2020, the Court denied defendant's request for certificate of appealability. Dkt. No. 184. Defendant's motion for transcripts (Dkt. No. 186) was denied on February 7, 2022. Dkt. No. 187.

Now before the Court is another request for transcripts by defendant. Dkt. No. 189. Defendant filed the same motion with the United States Court of Appeal for the First Circuit and the Clerk transmitted the motion to this Court. Dkt. No. 190.

Section 753(f) of Title 28, United States Code addresses the circumstances under which transcripts may be provided to an indigent criminal defendant at the government's expense.¹

¹ Section 753(f) provides in relevant part:

Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C.

Here, the Court denied defendant's Section 2255 motion and the appeal is now pending. Given that this Court denied a certificate of appealability and that defendant's request is now pending before the appeals court, the Court cannot conclude that the matter is not frivolous.

Accordingly, defendant's motion/request of transcript (Dkt. No. 189) is denied without prejudice to renew if the court of appeals grants a certificate of appealability. The Clerk shall transmit a copy of this order to the United States Court of Appeals for the First Circuit.

SO ORDERED.

/s/ Patti B. Saris
PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

3006A), or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States out of moneys appropriated for those purposes. Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.
28 U.S.C. § 753(f).